

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**JAMES W. GEORGE,**

Petitioner,

**v.**

**CIVIL ACTION NO. 3:11-CV-45  
(BAILEY)**

**UNITED STATES OF AMERICA,**

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge David J. Joel. By Local Rule, this action was referred to Magistrate Judge Joel for submission of a proposed report and a recommendation ("R&R"). Magistrate Judge Joel filed his R&R on October 11, 2011 [Doc. 7]. In that filing, the magistrate judge recommended that this Court dismiss without prejudice Petitioner's Motion for Return of Property [Doc. 1].

Pursuant to 28 U.S.C. § 636 (b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v.***

*Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Joel's R&R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b). However, the docket reflects that the R&R was returned as undeliverable on October 21, 2011 [Doc. 8]. To date, no objections have been filed.

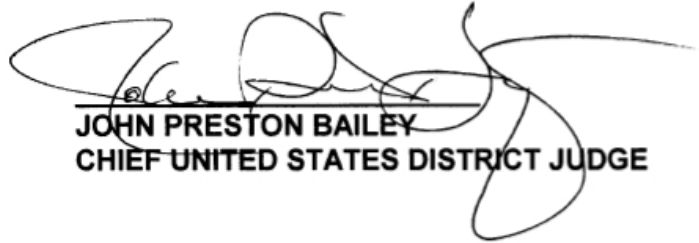
The petitioner filed his Motion for Return of Property on June 9, 2011 [Doc. 1]. On the same day, the Court sent the petitioner a Notice of General Guidelines for Appearing Pro Se in Federal Court, informing the petitioner that he must keep the Court apprised of his current address [Doc. 2 at 1]. In addition, the Court sent the petitioner a Notice of Deficient Pleading, listing items that the petitioner was required to file within thirty days [Doc. 3]. The docket reflects that the petitioner received these notices on June 13, 2011 [Doc. 4]. On September 26, 2011, Magistrate Judge Joel entered an Order to Show Cause, providing the petitioner with fourteen days to show why his case should not be dismissed [Doc. 5]; however, the order mailed to the petitioner was returned as undeliverable [Doc. 6]. As previously stated, the copy of the magistrate judge's R&R mailed to the petitioner was also returned as undeliverable [Doc. 8].

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's Report and Recommendation [**Doc. 7**] should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. As such, this Court hereby **DISMISSES without prejudice** the petitioner's Motion for Return of Property [**Doc. 1**]. Therefore, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court. The Clerk is directed to enter a separate judgment in favor of the respondent.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* petitioner.

**DATED:** November 2, 2011.



**JOHN PRESTON BAILEY**  
**CHIEF UNITED STATES DISTRICT JUDGE**